PART IV

Section 1-A

CENTRAL BILLS AND REPORTS OF SELECT COMMITTEES THEREON

NOTIFICATION

(LAW DEPARTMENT).

No. LAW 24 LCA 65, Bangalore, dated 15th March 1965.

Ordered that the Delhi Secondary Education Bill, 1964 (82 of 64) which has been published in the *Gazette of India*, Extraordinary, Part II, Section 2, dated the 9th December 1964 be republished in the *Mysore Gazette*, for general information.

By Order and in the name of the Governor of Mysore,

H. K. ANANTHASUBBA RAO,
Under Secy. to Govt., L. D.

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BILL NO. 82 OF 1964.

A Bill to provide for better organization and development of secondary education in the Union territory of Delhi.

Be it enacted by Parliament in the Fifteenth Year of the Republic of India as follows:—

1. *Short title, extent and commencement.*— (1) This Act may be called the Delhi Secondary Education Act, 1964.

(2) It extends to the whole of the Union territory of Delhi.

(3) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint and different dates may be appointed for different provisions of this Act.

2. *Definitions.*— In this Act, unless the context otherwise requires,—

(*a*) "Administrator" means the Administrator of Delhi appointed under article 239 of the Constitution;

(*b*) "aid" means any aid granted to a recognized school by the Central Government or a local authority;

(*c*) "aided school" means any school receiving aid out of the funds of the Central Government or a local authority;

(*d*) "Board" means the Central Board of Secondary Education;

(*e*) "Delhi" means the Uni n territory of Delhi;

(*f*) "Director" means the Director of Education, Delhi, and includes any other officer authorized by

the Administrator to perform all or any of the functions of the Director under this Act;

(*g*) "existing employee" means an employee of an existing school whose appointment as such has been approved by the Director;

(*h*) "existing school" means a school which is in existence at the commencement of this Act and which, having been recognized by an appropriate authority, continues to be so recognized immediately before such commencement;

(*i*) "head of school" means the principal academic officer, by whatever name called, of a recognized school;

(*j*) "inspector" means an Inspector of Schools or the Assistant Director of Education for Women and includes any other officer authorized by the Administrator to perform all or any of the functions of an inspector;

(*k*) "manager" means a person appointed, or deemed to have been appointed, to be the manager under sub-section (1) of section 6 and approved by the Director;

(*l*) "Managing Committee" means the committee of management constituted under the scheme of management referred to in section 5 and includes any other body charged with the management of the affairs of a school;

(*m*) "prescribed" means prescribed by rules made under this Act;

(*n*) "public examination" means an examination conducted by any authority recognized by the Director for such purpose;

(*o*) "recognized school" means a school recognized or deemed to have been recognized, under section 3;

(*p*) "school" means an institution for providing secondary education and includes—

(i) a composite school for providing primary, middle and secondary education;

(ii) any school in which provision exists for class IX and proposals are pending for the opening of classes X and XI;

(*q*) "school property" includes land, buildings, playgrounds, hostels and movable properties such as furniture, apparatus, equipment, books, maps and utensils;

(*r*) "secondary education" means full time general, vocational, technical, special or any other type of education which leads to the secondary, higher secondary or equivalent public examination;

(*s*) "teacher" includes the head of a school.

3. *Recognition of schools.*— (1) The Director or any other authority specified in this behalf by the Central Government may, on application made to it in the prescribed form and in the prescribed manner, recognize any school:

Provided that no school shall be recognized if –

(*a*) it does not have adequate funds to ensure financial stability; or

(*b*) it does not have a duly approved scheme of management as required by section 5; or

(*c*) it does not have suitable accommodation with adequate sanitary and seating arrangements; or

(*d*) its premises or any part thereof is used as a shop, an office or a residence unconnected with the activities of the school; or

(*e*) it does not have the prescribed facilities for physical education, library service, laboratory work, workshop practice or co-curricular activities; or

(*f*) it is named after a sect or caste.

(2) Where recognition to a school is refused on the ground of its being named after a sect or caste, the management of such school may appeal against the order in the prescribed manner to such authority as may be prescribed in this behalf by the Central Government whose decision thereon shall be final.

(3) Where the management of a school obtains recognition for the scoool by fraud, misrepresentation or suppression of material particulars or where, after obtaining recognition, the school fails to continue to comply with any of the conditions specified in the proviso to sub-section (1), the authority granting the recognition may, after giving the management of the school an opportunity of showing cause, withdraw the recognition granted to such school under sub-section (1).

(4) The recognition granted under sub-section (1) shall not by itself entitle any school to receive aid.

(5) Every existing school shall be deemed to have been recognized under this section:

Provided that where any such school does not satisfy any of the conditions specified in the proviso to sub-section (1), the prescribed authority may require the school to satisfy such condition within a specified period and if any such condition is not so satisfied, recognition may be withdrawn from such school.

(6) Every school whose recognition is withdrawn under sub-section (3) or sub-section (5) may appeal to the prescribed authority who shall dispose of the appeal in such manner as may be prescribed.

4. *Annual list of recognized schools.*— The Central Government shall publish on or before the first day of May of every year, in the Official Gazette, and in such other manner as may be prescribed, a list of all recognized schools.

5. *Scheme of management.*— (1) Notwithstanding anything in any law for the time being in force or in any instrument having effect by virtue of any such law, there shall be a scheme of management for every recognized school.

(2) The Administrator shall formulate a model scheme of management and the same shall be published in the Official Gazette.

(3) The Managing Committee of every existing school shall, within fifteen days from the publication of the scheme of management under sub-section (2), prepare and submit to the Administrator a scheme of management for such school which shall, so far as is practicable, be in conformity with the model scheme aforesaid.

(4) The Administrator may, after considering the scheme of management submitted to him under sub-section (3), approve such scheme with or without modifications.

(5) The scheme of management shall, among other things, provide for the constitution of a Managing Committee, by whatever name called, vested with authority to manage and conduct the affairs of the school.

(6) Subject to any rules made in this behalf and the requirements of section (6), the scheme of management of every recognized school shall specify the respective powers, duties and functions of the head of the school and of the Managing Committee of the school:

Provided that in respect of a Government school the composition, powers, functions and the manner of working of the Managing Committee shall be such as may be prescribed.

(7) The head of the school and two other teachers thereof chosen according to seniority by rotation in the prescribed manner shall be *ex officio* members of the Managing Committee.

(8) No member of any Managing Committee shall be entitled to vote or otherwise participate in any meeting of the committee whenever a charge concerning his personal conduct is under discussion.

(9) Where any person maintains more than one recognized school, there shall be a separate Managing Committee for each such school.

(10) Every recognized school shall be managed in accordance with the scheme of management approved under this section.

6. *Managers of schools*—(1) The Managing Committee constituted under section 5 of a recognized school other than a Government school may, subject to the approval of the Director, appoint any person to be the manager of the school.

Provided that any person functioning as a manager in respect of a recognized school having a Managing Committee and who has already been approved by the Director shall be deemed to have been appointed under this sub-section but only for so long as the scheme of management of the school is not approved under sub-section (4) of section 5.

(2) Any manager of a recognized school may resign his office by giving notice in writing of his intention so to do to the authority appointing him.

(*3*) A copy of such notice shall be simultaneously sent by him to the Director.

(*4*) It shall be the duty of the manager to—

(*a*) maintain in proper and good condition the school property placed under his control by the Managing Committee;

(*b*) maintain such records and accounts and furnish such statements and returns as may be prescribed;

(*c*) afford all assistance and facilities as may reasonably be necessary for the inspection of the school and its records and accounts by the inspector or any authority specified in this behalf by the Director; and

(*d*) generally, conduct the school in accordance with the provisions of this Act and the rules made thereunder.

7. *Closure of schools prohibited.* — (1) No school or class in a school shall be closed by the manager without notice in writing to that effect to the Director:

Provided that no school or class in a school shall be so closed before the expiry of six months from the date of the receipt by the Director of the notice or the expiry of the academic year in which the notice is given, whichever is later:

Provided further that no such notice shall be withdrawn without the consent of the Administrator.

(2) If at any time after notice has been given under sub-section (1), the manager of the school informs the Director that he is unable or unwilling to carry on the management of the school or class till the expiry of the period specified in the proviso

to sub-section (1), the Director may arrange to manage the school or class during the whole or any part of the unexpired portion of such period:

Provided that no additional liability shall fall on the Government in respect of the school or class during the period in which the Director so arranges to manage the school or class.

(3) In the event of the school being discontinued or down-graded or taken over or its recognition being withdrawn, the manager shall make over to the Director or any authority authorised by him in this behalf, all the records and accounts of the school maintained under sub-section (4) of section 6.

8. *Punishment for maintenance of false accounts, etc* — Any manager who fails to comply with the provisions of clause (*b*) or clause (*c*) of sub-section (4) of section 6 or wilfully maintains a false statement of accounts, shall, without prejudice to any other action that may be taken against him, be liable to be removed from managership:

Provided that before an order for removal of the manager from managership is passed, he shall be given an opportunity to show cause against such removal.

9. *Aid to recognized schools.* (1) The Central Government may, after due appropriation made by Parliament by law in this behalf, and subject to such conditions as may be prescribed, pay to any recognized school by way of aid such sums of money as the Central Government may consider necessary:

Provided that no existing school receiving aid shall be eligible for the continuance of the aid unless it complies with the prescribed conditions within such period as may be specified in this behalf.

(2) The authority competent to grant the aid may stop or suspend the aid for violation of any of the conditions prescribed by the rules made in this behalf or for any other good and sufficient cause.

(3) The aid may cover either the full expenditure or such part of the expenditure of the school as may be prescribed under the rules.

(4) The salaries and allowances of teachers and other employees of the school for the period for which aid is given shall be the first charge on such aid and no payment out of the aid shall be made or committed to be made before making payment to the teachers and other employees of their salaries and allowances for the period aforesaid.

(5) If the manager or the Managing Committee fails to comply with, or in any other manner contravenes, the provisions of sub-section (4) the manager or, as the case may be, the Managing Committee shall be deemed to have neglected his or its duties within the meaning of sub-section (1) of section 18.

(6) No aid shall be paid to a school which has been taken over under section 18.

10. *School property.* (1) By the 30th day of April each year, the manager of every aided school shall furnish to the Director a statement containing a list of the school property together with such particulars as may be prescribed.

(2) Notwithstanding anything to the contrary contained in any other law for the time being in force, no transfer or lease of any immovable property of an aided school shall be made except with the previous permission in writing of the Administrator.

(3) Any person aggrieved by an order of the Administrator under sub-section (2) may, in such manner and within such time as may be prescribed,

appeal to the Central Government whose decision thereon shall be final.

(4) Any transaction made in contravention of the order of the Administrator or, as the case may be, the decision of the Central Government shall be void.

11. *Terms and conditions of service of teachers and other employees.*— (1) The terms and conditions of service (including conditions regulating recruitment) of teachers and other employees of an aided school shall be such as may be prescribed.

(2) Subject to any rule that may be made in this behalf, no teacher of an aided school shall be dismissed, removed, reduced in rank or suspended, nor shall his services be otherwise terminated without the previous sanction in writing of the Director.

(3) Any teacher of an aided school aggrieved by any order under sub-section (2) may appeal to the prescribed authority who shall dispose of the appeal in such manner as may be prescribed.

(4) No person shall be disqualified for being appointed as, or for being, a teacher or any other employee of an aided school by reason only of his religious opinion or of his attendance or non-attendance at any religious worship or religious instruction.

12. *Salaries of teachers and other employees of aided schools.* (1) The salaries of teachers and other employees of an aided school shall be disbursed every month by the manager or by the prescribed authority within the prescribed time and in the prescribed manner, failing which it shall be competent for the Director to disburse or arrange to disburse the full approved salary of any teacher or other employee.

(2) For the purposes of sub-section (1), it shall be lawful for the Director either to withdraw the aid or, as the case may be, draw on the reserve and other funds of the school.

(3) Where there is any dispute regarding the salary or other dues to a teacher or other employee, the teacher or the other employee may make an application to the prescribed authority regarding the dispute and thereupon the prescribed authority shall, after giving an opportunity to the teacher or the other employee and the management to present their case, decide the matter which decision shall be binding on the teacher or the other employee and the management:

Provided that pending a decision on such application, the teacher or the other employee concerned shall continue to accept the amount offered or being offered to him by the manager or the Director.

13. *Affiliation.* - For the purpose of conducting public examination, all Government and aided schools shall be affiliated to the Board and shall fulfil the conditions prescribed by the Board in this behalf.

14. *Fees.* —No aided school shall levy any fee or any other charge at a rate exceeding the prescribed rate and such fees and other charges may be collected and accounted for in the prescribed manner.

15. *Admission of persons.* — (1) (*a*) No person who has not attained the age of five years shall be admitted to class I or equivalent class in a Government or recognized school.

(*b*) No person studying in any such school shall, without the permission in writing of the Director, be retained in the school after such person has attained the age of twenty years.

(2) Admission of persons into aided schools shall be made in the prescribed manner.

16. *School Fund.*— (1) In every aided school there shall be a fund to be called the School Fund and there shall be credited thereto—

(*a*) any monetary aid granted by the Central Government.

(*b*) income accruing to the school by way of fees, and

(*c*) any other contributions, endowments and the like.

(2) The School Fund and all other funds, including the Pupils' Fund, established with the approval of the Administrator shall be accounted for and operated upon in accordance with the rules made under this Act.

17. *Inspection.*— (1) Every recognized school shall be inspected at least once in each financial year in accordance with the prescribed rules.

(2) The Director may also arrange special inspection of any school on such aspects of its working as may, from time to time, be considered necessary by him.

(3) The Director may give directions to the manager requiring the manager to rectify any defect or deficiency found at the time of inspection or otherwise in the working of the school.

(4) If the manager fails to comply with any direction given under sub-section (3), the Director may after considering the explanation or report, if any, given or made by the manager, take such action as he may think fit, including—

(*a*) stoppage of aid,

(*b*) withdrawal of recognition, and

(*c*) taking over of the school under section 18.

18. *Taking over of aided schools.*— (1) Whenever it appears to the Administrator that the manager or Managing Committee of any aided school has neglected to perform any of the duties imposed by or under this Act, and that in the public interest it is expedient to take over the management of the school, he may, after giving the manager reasonable opportunity of showing cause against the proposed action, take over the management of that school for a period not exceeding five years.

(2) After taking over the management of any school under this Act, the Administrator may arrange to manage the school through the Director or any other person as may be considered expedient from time to time.

(3) Where the management of any aided school has been taken over under sub-section (1), the manager of the school may, within three months of the date of the taking over, represent to the Central Government for the restoration of the management of the school; and on considering the representation, the Central Government may order the restoration of the same.

(4) Where the management of any aided school has been taken over under this Act, the Administrator shall pay such rent for the building of the school, if any, to the person entitled to receive it as was being paid by the management before the taking over.

(5) During such period as any aided school remains under the management of the Administrator under this Act—

(*i*) the approved conditions of service of the existing employees of the school shall not ordinarily be adversely affected;

(*ii*) all educational facilities which the school had been affording immediately before such taking over shall ordinarily continue to be afforded; and

(*iii*) the School Fund shall continue to be available to the Administrator for being spent on the school.

(6) The Central Government may, if it deems it expedient, of its own motion or on the application of the previous management, discontinue a school taken over under this Act, and on such discontinuance the liability of the Central Government to run the school shall cease.

(7) Any order made or direction given under this section shall have effect notwithstanding anything inconsistent therewith contained in any other enactment or instrument relating to the management of the school.

19. *Exemption of immovable property.*—The Central Government shall, while taking over the management of any school, exempt any immovable property from being so taken over if such property is being used for any religious purpose, or if the Central Government is satisfied that such property on account of its proximity to any buildings of worship should be exempted.

20. *Advisory Committee*–There shall be an Advisory Committee on Education which shall assist the Director in formulating major policies about education and may be consulted by the Director on such matters as he thinks fit.

21. *Power to give directions.*—It shall be lawful for the Central Government to give any direction not inconsistent with the provisions of this Act to the manager or the Managing Committee of a

school in respect of any of the following matters, namely:—

(*i*) syllabus,

(*ii*) text-books and other reading material,

(*iii*) conditions of service of teachers,

(*iv*) sanitary facilities, and

(*v*) any other matter that may be prescribed.

22. *Delegation.*—The Central Government may delegate all or any of its powers, duties or functions under this Act to the Administrator or any other officer subordinate to him.

23. *Exemption* —If the Central Government is of opinion that it would not be expedient to make the provisions of this Act applicable to any school having regard to its financial resources, character, location or other relevant considerations, it may, by notification in the *Official Gazette*, exempt such school, either generally or subject to such conditions, if any, or for any period to be specified in the notification, from all or any of the provisions of this Act.

24. *Protection of action taken in good faith.*—No suit, prosecution or other legal proceeding shall lie against the Central Government or any authority or any officer appointed under this Act for anything which is in good faith done or intended to be done in pursuance of this Act or any rule made thereunder.

25. *Bar of jurisdiction.*—Save as otherwise expressly provided in this Act, no civil court shall have jurisdiction to entertain any suit or proceeding in respect of any matter which the Central Government or any officer or authority appointed or specified under this Act is empowered by or under this Act to determine

and no injunction shall be granted by any court or other authority in respect of any action taken or to be taken in pursuance of any power conferred by or under this Act.

26. *Power to make rules.*—(*1*) The Central Government may, by notification in the *Official Gazette*, and subject to the condition of previous publication, make rules for carrying out the purposes of this Act.

(*2*) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely :—

(*a*) the form and manner of making an application for recognition of a school;

(*b*) the facilities for physical education, library service, laboratory work, workshop-practice or co-curricular activities to be provided in a recognized school;

(*c*) the authority to which and the manner in which an appeal may be preferred under sub-section (*2*) of section 3;

(*d*) the authority to which an appeal shall lie under sub-section (*6*) of section 3 and the manner of disposal of such appeal;

(*e*) the manner of publication of the annual list of all recognized schools under section 4;

(*f*) the composition, powers, functions and the manner of working of the Managing Committee and the manner of choosing the *ex officio* members thereof under sub-section (7) of section 5;

(*g*) the records and accounts to be maintained and the statements and returns to be furnished under clause (*b*) of sub-section (*4*) of section 6;

(*h*) the conditions for the grant of aid to recognized schools under section 9 and matters connected therewith;

(*i*) the particulars to be contained in the statement to be furnished to the Director under sub-section (*1*) of section 10 regarding the school property;

(*j*) the manner in which and the time within which an appeal shall lie to the Central Government under sub-section (*3*) of section 10.

(*k*) the authority to which an appeal shall lie under sub-section (*3*) of section 11 and the manner of disposal of such appeal;

(*l*) the terms and conditions of service (including conditions regulating recruitment) of teachers and other employees of aided schools;

(*m*) the authority who shall disburse the salaries of teachers and other employees of an aided school under sub-section (*1*) of section 12, the time within which and the manner in which the same shall be disbursed and the authority to which an application may be made under sub-section (*3*) of that section;

(*n*) the rate exceeding which no fee or other charges shall be levied by an aided school and the manner of collection and accounting of the fees and other charges;

(*o*) the admission of persons into aided schools;

(*p*) the manner of accounting and operation of the School Fund and all other funds under sub-section (*2*) of section 16;

(*q*) the manner of inspection of recognized schools; and

(*r*) any other matter which is to be, or may be, prescribed under this Act.

(*3*) Every rule made under this section shall be laid as soon as may be after it is made, before each House of Parliament while it is in session for a total period of thirty days which may be comprised in one session or in two successive sessions, and if, before the expiry of the session in which it is so laid or the session immediately following, both Houses agree in making any modification in the rule or both Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so however that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

27. *Removal of difficulties.*—If any difficulty arises in giving effect to the provisions of this Act, the Central Government may, by order published in the *Official Gazette*, make such provisions not inconsistent with the purposes of this Act, as may appear to it to be necessary or expedient for removing the difficulty.

STATEMENT OF OBJECTS AND REASONS

In recent years the unsatisfactory working and management of a number of private secondary schools in the Union territory of Delhi have been subjected to a great deal of adverse criticism. These have been mainly in respect of (i) violations of executive instructions regarding timely payment of salaries to teachers, (ii) failure to create a Reserve Fund, (iii) recruitment of teachers with lower than the prescribed qualifications, (iv) unauthorised borrowing of money from the Pupils' Fund by the managements of schools, and (v) collecting compulsory donations to meet the managements' share of the maintenance expenditure of the schools.

2. At present the Delhi Administration have no legal power to compel the managements of private schools to abide by the rules and regulations governing the terms and conditions of service of teachers, the payment of salaries of the employees regularly, the maintenance of the quality of education in the institutions or to ensure their financial stability. Although there are several private schools running smoothly and efficiently, occasions do arise when drastic action is called for. The Administration can, of course, stop or suspend the payment of grant to the school in question; but recourse to such measures adversely affects the interests of the teachers and also of the pupils. It has, therefore, become necessary for the Government to have the necessary statutory authority to require the school managements to run the schools in conformity with the prescribed conditions for ensuring improved quality of instruction and the present Bill is designed to achieve this purpose.

3. The main features of the Bill are :—

(*a*) provision for grant of recognition to a school on fulfilment of the conditions laid down in this behalf;

(*b*) provision for the framing of a scheme of management for every recognized school and the constitution of Managing Committee thereunder;

(*c*) provision for payment, stoppage or suspension of grant to a school and for making the salaries and allowances of teachers and other employees of a school the first charge on such grant;

(*d*) provision regarding the conditions of service of teachers of aided schools and for the disbursement of their salaries;

(*e*) provision regarding taking over of managements of aided schools for a period not exceeding five years if it is deemed to be expedient in public interest to do so and in that event making the School Fund available to the Administrator for being spent on the school;

(*f*) provision regarding the setting up of an Advisory Committee to assist the Director of Education;

(*g*) provision for exemption of certain schools from the purview of this Act on certain grounds such as, character, location, financial resources, etc., of the schools concerned.

NEW DELHI ;
The 25th November, 1984.

M. C. CHAGLA.